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EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT  
DEPARTMENT OF WORKFORCE DEVELOPMENT  
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**Filing Year: 2009**

**IMPORTANT NOTICE OF STATUTORY AND REGULATORY CHANGES TO THE FAIR SHARE CONTRIBUTION PROGRAM**

This notice outlines statutory and regulatory changes that will affect your Fair Share Contribution (FSC) filing requirements and may affect your liability for making FSC payments.

**FILING FREQUENCY CHANGES FROM ANNUAL TO QUARTERLY FILING OF FSC AND HEALTH INSURANCE RESPONSIBILITY DISCLOSURE (HIRD) REPORTS**

Chapter 302 of the Acts of 2008, signed into law in August 2008, made the following changes:

1. FSC liability is based upon an employer's circumstances each quarter, rather than on a year as a whole.
2. Any employer liable to pay a fair share contribution will be required to pay in full on quarterly due dates referenced below. The quarterly fair share employer contribution rate shall be 25 percent of the annual fair share contribution rate applicable to the quarterly period. In 2009, this rate is \$73.75 per full-time equivalent (FTE) employee per quarter.
3. When an employer files a quarterly report in 2009, it will be using employment and health insurance data for the following applicable base periods:

<u>Quarter</u>	<u>Applicable Base Period</u>	<u>Timely Filing Period</u>	<u>Full Payment Due Date</u>
Quarter 1	10/01/08 – 12/31/08	01/01/09 – 02/15/09	02/15/09
Quarter 2	01/01/09 – 03/31/09	04/01/09 – 05/15/09	05/15/09
Quarter 3	04/01/09 – 06/30/09	07/01/09 – 08/15/09	08/15/09
Quarter 4	07/01/09 – 09/30/09	10/01/09 – 11/15/09	11/15/09

**Simplified Filing Schedule:**

All employers will be required to submit a quarterly filing by 2/15/09, covering the base period of 10/1/08 – 12/31/08. In an effort to minimize the filing requirements for many employers, the Division of Unemployment Assistance (DUA) may not require a separate FSC filing for subsequent quarters of the year. Subsequent quarterly filing obligations will be established by DUA based on information previously submitted by the employer. Firms that are liable for payment in the first quarterly filing or are at risk of becoming liable for payment in future quarters will be required to file each quarter.

Once an employer is liable for payment, it must file for each ensuing quarter of the year. Any employer who is liable for payment in a particular quarter and who fails to file and pay in accordance with the schedule provided in this notice will be subject to a non-payment penalty required by law.

DUA will notify employers of their filing requirements based upon the information available to us; however, employers should be aware that if they incur liability for FSC in any quarter, they must file even if not notified to do so by DUA. Therefore, if an employer has 11 or more full-time **equivalent** employees (5,500 or more quarterly payroll hours) and has liability, DUA's failure to notify an employer does not relieve them of their responsibility to file and pay timely.

Effective January 2010, all employers filing for Quarter 1 of the filing year, who were not required to file each quarter of the previous filing year, will be required to retroactively provide a simple certification of liability status for the previous quarters not filed.

In order to ease additional reporting requirements placed on employers by Chapter 58 of the Acts of 2006, upon completion of the on-line FSC filing, DUA will navigate the employer to the Division of Health Care Finance and Policy (DHCFP) website to complete the employer HIRD filing. This will make it possible for the employer to satisfy two required reports in a single on-line session. The

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employer HIRD filing will not be required for the 10/1/08-12/31/08 filing. Commencing 1/1/09, an employer HIRD filing will only be required when an FSC quarterly filing is required.

## **CHANGE IN DIVISION OF HEALTH CARE FINANCE AND POLICY REGULATION FOR DETERMINING WHETHER AN EMPLOYER HAS MADE A FAIR AND REASONABLE CONTRIBUTION TO EMPLOYEE HEALTH INSURANCE**

### ***Quarterly base period 10/1/08 – 12/31/08:***

A quarterly filing of the FSC report for this period is due by 2/15/09, but there are no changes to either the primary or secondary tests for determining whether a Fair and Reasonable contribution was made. Thus, for all Massachusetts employers with 5,500 or more payroll hours in this base period, the tests remain as follows:

Employer's percentage of full-time employees enrolled in an employer-sponsored group health plan is at least 25%;

**OR**

Employer meets the minimum premium contribution standard of 33% toward an employer-sponsored group health plan. The plan must have been in place for the entire quarter and available to all full-time employees employed at least 90 days.

### ***Quarterly base periods beginning 1/1/09:***

In accordance with the Division of Health Care Finance and Policy (DHCFF) regulation 114.5 CMR 16.00, changes to the Fair and Reasonable tests will become effective on 1/1/09 and will be reflected in the filings due 5/15/09 and thereafter. These tests differ depending upon the number of quarterly full-time equivalent employees (FTE) reported by the employer.

#### **Employers with more than 50 full-time equivalent employees (more than 25,000 quarterly payroll hours):**

(Employer's percentage of full-time employees enrolled in an employer-sponsored group health plan is at least 25% **AND** Employer meets the minimum premium contribution standard of 33% toward an employer-sponsored group health plan. The plan must have been in place for the entire quarter and available to all full-time employees employed at least 90 days);

**OR**

Employer's percentage of full-time employees enrolled in an employer-sponsored group health plan is at least 75%.

#### **Employers with 50 or fewer full-time equivalent employees (25,000 or fewer quarterly payroll hours):**

Employer's percentage of full-time employees enrolled in an employer-sponsored group health plan is at least 25%;

**OR**

Employer meets the minimum premium contribution standard of 33% toward an employer-sponsored group health plan. The plan must have been in place for the entire quarter and available to all full-time employees employed at least 90 days.

## **WHERE TO OBTAIN FURTHER INFORMATION**

All employers are encouraged to review applicable laws and regulations:

- Chapter 302 of the Acts of 2008, Sections 18 and 19 which stipulates the filing frequency change from annual to quarterly has been incorporated into MGL Chapter 149 Section 188: [www.mass.gov/legis/laws/mgl/149-188.htm](http://www.mass.gov/legis/laws/mgl/149-188.htm)
- DHCFF regulation 114.5 CMR 16.00, which defines the fair and reasonable tests for employer contribution to the health insurance premium costs of its employees: [www.mass.gov/fairshare](http://www.mass.gov/fairshare)
- DUA regulation 430 CMR 15.00, which further defines the filing and payment requirements: [www.mass.gov/fairshare](http://www.mass.gov/fairshare)

Access the <https://fsc.detma.org> website to file the FSC and HIRD reports. Quarterly filing may begin on the first day of the associated timely filing period referenced above. Please email questions to [FSC@detma.org](mailto:FSC@detma.org) or contact the Fair Share Contribution Unit at 617-626-6080, option 3 Monday through Friday, 8:30 A.M. - 4:30 P.M. EST.